

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2004-014093

04/09/2007

HONORABLE PAUL J. MCMURDIE

CLERK OF THE COURT
C.I. Miller
Deputy

ROGELIO FRANCO, et al.

ANTONIO DOMINGUEZ

v.

JANET K PRESCOTT, et al.

NEAL B THOMAS

**STATUS CONFERENCE/
TRIAL SET**

11:28 a.m. This is the time set for Status Conference to Set Trial Date. Plaintiff is represented by counsel, Antonio Dominguez. Defendants Adele Carlson, James Maulsby and West USA Realty are represented by counsel, Neal Thomas.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

A status/scheduling conference is conducted.

THIS IS A TRIAL SETTING ORDER. PLEASE READ CAREFULLY FOR COMPLIANCE.

IT IS ORDERED as follows:

1. Setting this matter for **Trial to a Jury at 9:30 a.m., on February 5, 2008**, before **Judge Carey Hyatt, 5th Floor**, East Court Bldg., 101 West Jefferson, Phoenix, AZ 85003, with counsel to be present at **9:00 a.m., February 5, 2008**, to discuss pretrial matters.

Estimated length of trial: Four (4) Days.

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THIS IS A FIRM TRIAL SETTING. A MOTION TO CONTINUE BASED ON LACK OF PREPARATION WILL ORDINARILY NOT BE GRANTED.

2. A Final Trial Management Conference is set for **January 28, 2008, at 8:30 a.m. (30 mins.)**.

DUTIES PRIOR TO THE FINAL PRETRIAL CONFERENCE

3. **MOTIONS IN LIMINE.** All Motions in Limine shall be filed **no later than December 26, 2007**. Such motions must meet the test of State v. Superior Court, 108 Ariz. 396, 397; 499 P.2d 152 (1972): The primary purpose of a Motion in Limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial. See also, Ariz. R. Evid. 103(c). A written response to a Motion in Limine may be filed no later than ten (10) days thereafter. The court may rule on Motions in Limine without oral argument. No replies shall be filed.

4. **JOINT PRETRIAL STATEMENT.** Before the Final Trial Management Conference, counsel shall deliver to the trial judge by **January 25, 2008**, a copy of the **Joint Pretrial Statement (signed by all counsel)**.

Final Trial Witnesses: In addition to the information required by Rule 16(d), the Joint Pretrial Statement shall include an exhibit titled: **Final Trial Witness List**. This list shall contain the name of each witness a party actually intends to call at trial, the day on which they intend to call each witness and the estimated time needed for direct, cross and re-direct examination.

5. **JURY INSTRUCTIONS; VOIR DIRE QUESTIONS.** Counsel shall meet and agree on as many proposed jury instructions as possible. Three judicial days before the Final Pretrial Conference, counsel shall deliver to the trial judge, with their Joint Pretrial Statement, copies of:

1. Proposed voir dire questions.
2. A joint set of agreed-upon preliminary, and final jury instructions and **proposed forms of verdicts**.
3. Separate sets of requested instructions that have not been agreed upon. Please read Rosen v. Knaub, 175 Ariz. 329; 85 P.2d 381 (1993) and the RAJI Civil 3d Statement of Purpose and Approach before preparing requests for non-RAJI instructions.

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Recommended Arizona Jury Instructions (RAJI) need not be typed and may be requested in the following manner: RAJI 3d Standard 1 - Duty of Jurors. Non-RAJI instructions should be typed and provided on disk. Each instruction should cover only one subject.

DUTIES AT FINAL PRETRIAL CONFERENCE

6. At the Final Pretrial Conference, counsel shall be prepared to discuss:

1. Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
2. Stipulations for the foundation and authenticity of exhibits.
3. Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and voir dire.
4. Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
5. Any special scheduling or equipment issues.

7. Counsel shall call the division clerk at least one week before trial to make arrangements for marking exhibits. The exhibits will be marked serially as they are listed in the Joint Pretrial Statement--Plaintiff's first, Defendant's second. Please advise the clerk, by signed stipulation or on the record referring specifically to the Joint Pretrial Statement, which exhibits may be marked directly into evidence.

8. One day's jury fees will be assessed unless the court is notified of settlement before 2:00 p.m. on the judicial day before the trial. Counsel are reminded to promptly notify the court of any settlement pursuant to Rule 5.1(c), Ariz.R.Civ.P.

11:32 a.m. Conference concludes.

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LET THE RECORD REFLECT that based on normal judicial rotations, **on May 29, 2007**, this civil calendar will be presided over by the Honorable Carey Hyatt, 5th Floor, East Court Building, 101 West Jefferson, Phoenix, AZ 85003.

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All motions briefed and argued (if necessary) prior to **May 29, 2007**, will be decided by Judge Paul McMurdie. Post-trial motions from trials completed by **May 29, 2007**, will also be handled by Judge McMurdie.